



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

COPY MAILED

FEB 06 2007

OFFICE OF PETITIONS

In re Application of

Garcia

Application No. 10/507,138

Filed: 09-09-2004

Attorney Docket No. P/4043-146

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 18, 2006, to withdraw the holding of abandonment in the above-identified application.

On May 3, 2006, the Office mailed a nonfinal Office action, which set a three (3) month shortened statutory period for reply. In the apparent absence of a timely reply, the Office mailed a Notice of Abandonment on November 15, 2006.

Petitioner asserted that he submitted a timely reply to the nonfinal Office action with a certificate of mailing dated November 3, 2006. With the present petition, petitioner submitted a copy of the previously mailed reply in the form of an amendment and a request for an extension of time for response within the third month, bearing certificates of mailing dated November 3, 2006.

Upon a review of the record, the reply and the request for an extension of time for response within the third month were located in the application file. Additionally, the USPTO finance records indicate that the Office processed the payment for the three-month extension of time.

Petitioner has established that he submitted a timely reply to the nonfinal Office action. Therefore, the petition is **granted**. The holding of abandonment is withdrawn and the application is restored to pending status.¹

¹ The grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. The Office notes that after revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect.

This matter is being referred to Technology Center AU 2612 for appropriate action in the normal course of business on the reply received on November 13, 2006 (certificate of mailing dated November 3, 2006).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petition